

**Senate File 540 - Reprinted**

SENATE FILE 540  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO SF 360)

(As Amended and Passed by the Senate April 2, 2019)

**A BILL FOR**

1 An Act relating to the temporary delegation of parental  
2 authority by the parent, guardian, or legal custodian of a  
3 child.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   633F.1   Definitions.

2     1.  "*Agent*" means a person granted authority to act for a  
3     parent, guardian, or legal custodian under a power of attorney  
4     created under this chapter.

5     2.  "*Child*" means a person under eighteen years of age.

6     3.  "*Power of attorney*" means a writing that grants authority  
7     to an agent to act in the place of a parent, guardian, or legal  
8     custodian regarding the care or custody of a child.

9     Sec. 2. NEW SECTION.   633F.2   Power of attorney — temporary  
10    delegation of parental authority.

11    1.  A parent, guardian, or legal custodian of a child, by a  
12    properly executed power of attorney, may delegate to another  
13    person any authority regarding the care or custody of the child  
14    except for any of the following powers:

15    a.  The power to consent to the child's marriage.

16    b.  The power to consent to the child's adoption.

17    c.  The power to consent to the performance or inducement of  
18    an abortion on or for the child.

19    d.  The power to consent to the termination of the parental  
20    rights of a parent of the child.

21    e.  The power to transfer the power of attorney to another  
22    person unless the other person is designated as a successor  
23    agent in the power of attorney.

24    2.  A power of attorney executed under this chapter must be  
25    signed by all parents, guardians, and legal custodians.  The  
26    power of attorney must be acknowledged before a notary public  
27    or other individual authorized by law to take acknowledgments.  
28    An agent named in the power of attorney shall not notarize the  
29    principal's signature.  An acknowledged signature on a power of  
30    attorney is presumed to be genuine.

31    3.  A parent, guardian, or legal custodian of the child shall  
32    have the authority to revoke or terminate a power of attorney  
33    created under this chapter at any time by giving notice of the  
34    revocation in writing to the agent.

35    4.  A power of attorney created under this chapter shall be

1 for a period of time not to exceed three months. A parent,  
 2 guardian, or legal custodian of the child may execute a new  
 3 power of attorney for an additional period of three months, but  
 4 in no case shall a power of attorney created under this chapter  
 5 be valid for more than six months. If a parent, guardian, or  
 6 legal custodian revokes or terminates the power of attorney,  
 7 the child shall be returned to the care and custody of the  
 8 parent, guardian, or legal custodian within twenty-four hours  
 9 of the date of the revocation or termination.

10 5. An agent shall exercise parental or legal authority on a  
 11 continuous basis without compensation for the duration of the  
 12 power of attorney and shall not be considered to be a foster  
 13 parent subject to licensure by the department of human services  
 14 pursuant to chapter 237.

15 6. A power of attorney executed under this chapter by a  
 16 parent, guardian, or legal custodian shall not constitute  
 17 abandonment, abuse, or neglect of the child under chapter 232  
 18 by the parent, guardian, or legal custodian unless the parent,  
 19 guardian, or legal custodian fails to take custody of the child  
 20 upon the expiration of the power of attorney.

21 7. A power of attorney executed under this chapter by a  
 22 parent, guardian, or legal custodian shall not be valid if the  
 23 purpose is to avoid the filing of a child in need of assistance  
 24 petition.

25 8. This chapter shall not apply to a power of attorney  
 26 created pursuant to section 598C.204.

27 Sec. 3. NEW SECTION. 633F.3 Power of attorney temporary  
 28 delegation of parental authority — form.

29 A document substantially in the following form may be used  
 30 to create a power of attorney temporary delegation of parental  
 31 authority that has the meaning and effect prescribed by this  
 32 chapter:

33 POWER OF ATTORNEY TEMPORARY DELEGATION OF PARENTAL AUTHORITY  
 34 FORM

35 1. POWER OF ATTORNEY

1 This power of attorney authorizes another person (your  
 2 agent) to make decisions concerning your child or children for  
 3 you (the principal). Your agent will be able to make decisions  
 4 and act with respect to your child or children. The meaning  
 5 of authority over the child or children listed on this form is  
 6 explained in Iowa Code chapter 633F. This power of attorney  
 7 does not grant the agent the power to consent to a child's  
 8 marriage or adoption, to the performance or inducement of an  
 9 abortion on or for a child, or to the termination of parental  
 10 rights of a parent of a child or to the transfer of the power  
 11 of attorney to a person other than to a person designated as a  
 12 successor agent in this power of attorney.

13 You should select someone you trust to serve as your agent.

14 Your agent is not entitled to compensation unless you state  
 15 otherwise in the optional Special Instructions.

16 This form provides for designation of one agent. If you  
 17 wish to name more than one agent, you may name a coagent in the  
 18 optional Special Instructions. Coagents must act by majority  
 19 rule unless you provide otherwise in the optional Special  
 20 Instructions.

21 If your agent is unable or unwilling to act for you, your  
 22 power of attorney will end unless you have named a successor  
 23 agent. You may also name a second successor agent.

24 This power of attorney becomes effective immediately upon  
 25 signature and acknowledgment unless you state otherwise in the  
 26 optional Special Instructions.

27 If you have questions about this power of attorney or the  
 28 authority you are granting to your agent, you should seek legal  
 29 advice before signing this form.

30 DESIGNATION OF AGENT

31 I \_\_\_\_\_ (name of principal) name the  
 32 following person as my agent:

33 Name of Agent \_\_\_\_\_

34 Agent's Address \_\_\_\_\_

35 Agent's Telephone Number \_\_\_\_\_

1                    DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

2     If my agent is unable or unwilling to act for me, I name as  
3 my successor agent:

4     Name of Successor Agent \_\_\_\_\_

5     Successor Agent's Address \_\_\_\_\_

6     Successor Agent's Telephone Number \_\_\_\_\_

7     If my successor agent is unable or unwilling to act for me, I  
8 name as my second successor agent:

9     Name of Second Successor Agent \_\_\_\_\_

10    Second Successor Agent's Address \_\_\_\_\_

11    Second Successor Agent's Telephone Number \_\_\_\_\_

12                    GRANT OF GENERAL AUTHORITY

13    I grant my agent and any successor agent general authority to  
14 act for me with respect to my child or my children as defined in  
15 Iowa Code chapter 633F.

16                    SPECIAL INSTRUCTIONS

17    You may give special instructions including the name and  
18 date of birth of the child on the following lines:

19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_  
29 \_\_\_\_\_  
30 \_\_\_\_\_.

31                    EFFECTIVE DATE

32    This power of attorney is effective immediately upon  
33 signature and acknowledgment unless I have stated otherwise in  
34 the optional Special Instructions.

35                    RELIANCE ON THIS POWER OF ATTORNEY

1 Any person, including my agent, may rely upon the validity of  
2 this power of attorney or a copy of it unless that person knows  
3 it has terminated or is invalid.

4 SIGNATURE AND ACKNOWLEDGMENT

5 \_\_\_\_\_  
6 Your Signature \_\_\_\_\_ Date

7 \_\_\_\_\_  
8 Your Name Printed

9 \_\_\_\_\_  
10 \_\_\_\_\_

11 Your Address  
12 \_\_\_\_\_

13 Your Telephone Number  
14 State of \_\_\_\_\_

15 County of \_\_\_\_\_  
16 This document was acknowledged before me on \_\_\_\_\_

17 (date), by \_\_\_\_\_ (name of principal)  
18 \_\_\_\_\_ (Seal, if any)

19 Signature of Notary  
20 My commission expires \_\_\_\_\_

21 This document prepared by  
22 \_\_\_\_\_

23 \_\_\_\_\_  
24 2. IMPORTANT INFORMATION FOR AGENT

25 AGENT'S DUTIES

26 When you accept the authority granted under this power of  
27 attorney, a special legal relationship is created between the  
28 principal and you. This relationship imposes upon you legal  
29 duties that continue until you resign or the power of attorney  
30 is terminated or revoked. You must do all of the following:

31 Act in good faith.

32 Do nothing beyond the authority granted in this power of  
33 attorney.

34 Disclose your identity as an agent whenever you act for the  
35 principal by writing or printing the name of the principal and

1 signing your own name as agent in the following manner:

2 \_\_\_\_\_ (principal's name) by

3 \_\_\_\_\_ (your signature) as Agent

4 Unless the Special Instructions in this power of attorney  
5 state otherwise, you must also do all of the following:

6 Act loyally for the child's or children's and principal's  
7 benefit.

8 Avoid conflicts that would impair your ability to act in the  
9 child or children's and principal's best interest.

10 Act with care, competence, and diligence.

11 TERMINATION OF AGENT'S AUTHORITY

12 You must stop acting on behalf of the principal if you learn  
13 of any event that terminates this power of attorney or your  
14 authority under this power of attorney. Events that terminate  
15 a power of attorney or your authority to act under a power of  
16 attorney include any of the following:

17 The principal's revocation of the power of attorney or your  
18 authority.

19 The occurrence of a termination event stated in the power of  
20 attorney.

21 The purpose of the power of attorney is fully accomplished.

22 The time period specified in the power of attorney has  
23 expired.

24 The three-month time period permitted under Iowa Code  
25 chapter 633F has expired.

26 The three-month extension time period permitted under Iowa  
27 Code chapter 633F has expired.

28 LIABILITY OF AGENT

29 The meaning of the authority granted to you is defined in  
30 Iowa Code chapter 633F. If you violate Iowa Code chapter 633F,  
31 or act outside the authority granted, you may be liable for any  
32 damages caused by your violation.

33 If there is anything about this document or your duties that  
34 you do not understand, you should seek legal advice.

35 Sec. 4. NEW SECTION. 633F.4 Agent's certification —

1 optional form.

2 The following optional form may be used by an agent to  
3 certify facts concerning a power of attorney:

4 IOWA STATUTORY POWER OF ATTORNEY TEMPORARY DELEGATION OF  
5 PARENTAL AUTHORITY AGENT'S CERTIFICATION FORM  
6 AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND  
7 AGENT'S AUTHORITY

8 State of \_\_\_\_\_

9 County of \_\_\_\_\_

10 I, \_\_\_\_\_ (name of agent), certify  
11 under penalty of perjury that \_\_\_\_\_  
12 (name of principal) granted me authority as an agent  
13 or successor agent in a power of attorney dated  
14 \_\_\_\_\_.

15 I further certify all of the following to my knowledge:

16 The principal is alive and has not revoked the power of  
17 attorney or the Power of Attorney and my authority to act under  
18 the Power of Attorney have not terminated.

19 If the power of attorney was drafted to become effective  
20 upon the happening of an event or contingency, the event or  
21 contingency has occurred.

22 If I was named as a successor agent, the prior agent is no  
23 longer able or willing to serve.

24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_.

27 (Insert other relevant statements)

28 SIGNATURE AND ACKNOWLEDGMENT

29 \_\_\_\_\_  
30 Agent's Signature Date

31 \_\_\_\_\_  
32 Agent's Name Printed

33 \_\_\_\_\_  
34 \_\_\_\_\_

35 Agent's Address



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1 \_\_\_\_\_  
2 Agent's Telephone Number  
3 This document was acknowledged before me on \_\_\_\_\_  
4 (date), by \_\_\_\_\_ (name of agent)  
5 \_\_\_\_\_ (Seal, if any)  
6 Signature of Notary  
7 My commission expires \_\_\_\_\_  
8 This document prepared by  
9 \_\_\_\_\_  
10 \_\_\_\_\_